

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 328, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be **AMENDED** as follows:

- 1       Page 2, between lines 6 and 7, begin a new line block indented and
- 2       insert:
- 3       **"(4) A person for whom a national criminal history**
- 4       **background check is required for purposes of placement of a**
- 5       **child in a foster family home, a prospective adoptive home, or**
- 6       **the home of a relative or other caretaker, or for purposes of**
- 7       **a report concerning an adoption as required by IC 31-19-8."**
- 8       Page 2, line 19, delete ":".
- 9       Page 2, line 20, strike "(1)".
- 10      Page 2, line 20, delete ";" and insert ",".
- 11      Page 2, line 21, after "or" insert "**that**".
- 12      Page 2, line 22, strike "(2)".
- 13      Run in lines 19 through 24.
- 14      Page 2, line 27, strike "applicant" and insert "**person who is the**
- 15      **subject of a request**".
- 16      Page 2, line 27, delete "of" and insert "**of:**
- 17      **(1)**".
- 18      Page 2, line 28, after "IC 20-26-5-11" insert ";
- 19      **(2) in the case of a foster family home, an offense described in**
- 20      **IC 31-27-4-13(a);**
- 21      **(3) in the case of a prospective adoptive home, an offense**

- 1           **described in IC 31-19-11-1(c);**
- 2           **(4) any other felony; or**
- 3           **(5) any misdemeanor;"**.
- 4           Page 2, line 28, begin a new line blocked left beginning with "and".
- 5           Page 4, line 16, after "age" insert **"and who is"**.
- 6           Page 4, line 21, reset in roman "or".
- 7           Page 4, strike lines 22 through 27.
- 8           Page 4, line 28, strike "IC 31-27;"
- 9           Page 4, line 28, delete "or".
- 10          Page 4, line 29, delete "(iii)" and insert **"(ii)"**.
- 11          Page 4, line 33, strike "national".
- 12          Page 4, line 34, after "check" insert **"of both national and state**
- 13 **records data bases"**.
- 14          Page 4, line 35, after "with" insert **"IC 10-13-3-27 and"**.
- 15          Page 4, line 39, strike "and".
- 16          Page 5, line 1, after "resided" insert **"within the previous five (5)**
- 17 **years; and**
- 18               **(3) request information concerning any substantiated report**
- 19               **of child abuse or neglect relating to a person described in**
- 20               **subdivision (1)(A) that is contained in a national registry of**
- 21               **substantiated cases of child abuse or neglect that is established**
- 22               **and maintained by the United States Department of Health**
- 23               **and Human Services, to the extent that the information is**
- 24               **accessible pursuant to 42 U.S.C. 16990 and any applicable**
- 25               **regulations or policies of the Department of Health and**
- 26               **Human Services.**
- 27          SECTION 6. IC 31-9-2-26, AS AMENDED BY P.L.145-2006,
- 28          SECTION 184, IS AMENDED TO READ AS FOLLOWS
- 29          [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office", for purposes
- 30          of ~~IC 31-25 through IC 31-40~~ **IC 31** and the juvenile law, refers to a
- 31          county office of ~~family and children~~ **the department of child services**
- 32          **established by IC 31-25-1-1."**
- 33          Page 5, between lines 32 and 33, begin a new paragraph and insert:
- 34          "SECTION 9. IC 31-9-2-58.3 IS ADDED TO THE INDIANA
- 35          CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 36          [EFFECTIVE JULY 1, 2007]: **Sec. 58.3. "Index", for purposes of**
- 37          **IC 31-33-26, means the child protection index established under**
- 38          **IC 31-33-26-2."**
- 39          Page 6, line 6, strike "(a)".
- 40          Page 6, line 9, strike "(b) "Registry", for purposes of IC 31-33, refers
- 41          to the child".
- 42          Page 6, line 10, delete "protection".

- 1       Page 6, line 10, strike "registry established by the department  
2 under".
- 3       Page 6, delete line 11.
- 4       Page 10, line 11, after "volunteer" insert ". **However, a national  
5 fingerprint based criminal history background check defined in  
6 IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be  
7 completed not later than the conclusion of the first ninety (90) days  
8 of employment in or assignment of a volunteer**".
- 9       Page 10, line 12, delete "However, if" and insert "**If**".
- 10       Page 10, line 18, after "(i)" insert "**An applicant or licensee may  
11 provisionally employ an individual or assign a volunteer for whom  
12 a criminal history check is required under subsection (d)(3) during  
13 the period after the process of requesting national fingerprint  
14 based criminal history background check information has been  
15 initiated by or on behalf of the applicant or licensee but before the  
16 determination is obtained by or communicated to the applicant or  
17 licensee. If the determination is not received by not later than the  
18 ninety (90) days after the effective date of hire or volunteer  
19 assignment, the employee or volunteer relationship must be  
20 terminated or suspended until a determination is received. An  
21 employee or volunteer whose determination has not yet been  
22 received may not have direct contact with a child who is or will be  
23 placed at a facility operated by the applicant or licensee unless the  
24 direct contact occurs only in the presence of a volunteer or  
25 employee of the applicant or licensee who has been the subject of  
26 a completed and approved criminal history check. In determining  
27 whether to provisionally hire or assign as a volunteer an individual  
28 under subsection (d)(3), the applicant or licensee shall consider the  
29 following:**
- 30           (1) The training time required by an employee or a volunteer.  
31           (2) The safety and security of the children under the  
32           supervision of the applicant or licensee.  
33           (3) The safety and security of the other staff and volunteers  
34           working under the supervision of the applicant or licensee.  
35           (4) The staffing concerns of the applicant or licensee.  
36           (5) Any other factor relating to the safety and security of the  
37           applicant or licensee's operations.
- 38       (j)".
- 39       Page 10, line 25, delete "(j)" and insert "**(k)**".
- 40       Page 11, line 1, strike "an employee of the".
- 41       Page 11, strike lines 2 through 5.
- 42       Page 11, line 6, strike "the direct supervision of the applicant" and

1 insert **"or the director or manager of a facility where children will**  
 2 **be placed by the applicant"**.

3 Page 11, line 19, delete "licensee" and insert **"applicant"**.

4 Page 11, line 23, after "(b)" insert **"An application for a license**  
 5 **may also be denied if an employee or volunteer of the applicant**  
 6 **who has direct contact on a regular and continuous basis with**  
 7 **children who are under the direct supervision of the applicant has**  
 8 **been convicted of any of the following:**

9 (1) A felony described in IC 31-27-4-13(a); or

10 (2) Any other felony or a misdemeanor relating to the health  
 11 and safety of a child, unless the applicant is granted a waiver  
 12 by the department to employ or assign the person as a  
 13 volunteer in a position described in this subsection.

14 (c) In determining whether to grant a waiver under subsection  
 15 (b), the department shall consider the following factors:

16 (1) The length of time that has passed since the disqualifying  
 17 conviction.

18 (2) The severity, nature, and circumstances of the offense.

19 (3) Evidence of rehabilitation.

20 (4) The duties and qualifications required for the proposed  
 21 employment positions or volunteer assignment.

22 (d)".

23 Page 11, line 24, delete "is" and insert **"could be"**.

24 Page 11, line 29, strike "require" and insert **"constitute a sufficient**  
 25 **basis for the"**.

26 Page 11, between lines 29 and 30, begin a new paragraph and insert:

27 **"(e) The department may adopt rules to implement this section"**.

28 Page 12, line 10, after "Sec. 31." insert **"(a)"**.

29 Page 12, line 21, strike "an employee of the".

30 Page 12, strike lines 22 through 25.

31 Page 12, line 26, strike "the direct supervision of the licensee" and  
 32 insert **"or the director or manager of a facility where children will**  
 33 **be placed by the licensee"**.

34 Page 12, after line 42, begin a new paragraph and insert:

35 **"(b) A license may also be revoked if an employee or volunteer**  
 36 **of the licensee who has direct contact on a regular and continuous**  
 37 **basis with children who are under the direct supervision of the**  
 38 **licensee has been convicted of any of the following:**

39 (1) A felony described in IC 31-27-4-13(a); or

40 (2) Any other felony or a misdemeanor relating to the health  
 41 and safety of a child, unless the licensee is granted a waiver by  
 42 the department to employ or assign the person as a volunteer

1 in a position described in this subsection.

2 (c) In determining whether to grant a waiver under subsection  
3 (b), the department shall consider the following factors:

4 (1) The length of time that has passed since the disqualifying  
5 conviction.

6 (2) The severity, nature, and circumstances of the offense.

7 (3) Evidence of rehabilitation.

8 (4) The duties and qualifications required for the proposed  
9 employment positions or volunteer assignment.

10 (d) Notwithstanding subsection (b), if:

11 (1) A license could be revoked due to a criminal conviction of  
12 an employee or a volunteer of the licensee; and

13 (2) the department determines that the employee or volunteer  
14 has been dismissed by the licensee within a reasonable time  
15 after the licensee became aware of the conviction;

16 the criminal conviction of the former employee or former  
17 volunteer does not constitute a sufficient basis for the revocation  
18 of a license.

19 (e) The department may adopt rules to implement this section."

20 Page 13, line 30, reset in roman "household members who are at  
21 least fourteen (14)".

22 Page 13, line 31, reset in roman "years of age".

23 Page 13, line 31, delete "persons at least eighteen (18) years of age  
24 residing" and insert ".".

25 Page 13, delete lines 32 through 35.

26 Page 14, line 20, delete "A" and insert "**With the exception of a**  
27 **national fingerprint based criminal history background check (as**  
28 **defined in IC 31-9-2-22.5(1)(B)) and required under subsection**  
29 **(e)(1), a".**

30 Page 14, line 25, after "(e)(2)" insert "**A national fingerprint based**  
31 **criminal history background check (as defined in**  
32 **IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1) must be**  
33 **completed not later than the conclusion of the first ninety (90) days**  
34 **of employment in or assignment of a volunteer."**

35 Page 14, line 32, after "(j)" insert "**An applicant or licensee may**  
36 **provisionally employ an individual or assign a volunteer for whom**  
37 **a criminal history check is required under subsection (e)(3) during**  
38 **the period after the process of requesting national fingerprint**  
39 **based criminal history background check information has been**  
40 **initiated by or on behalf of the applicant or licensee but before the**  
41 **determination is obtained by or communicated to the applicant or**  
42 **licensee. If the determination is not received by not later than the**

ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (e)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(k)".

Page 14, line 39, delete "(k)" and insert "(l)".

Page 15, line 17, strike "an employee of the".

Page 15, strike lines 18 through 19.

Page 15, line 20, strike "applicant, or a volunteer".

Page 15, line 20, delete "or person residing in the residence".

Page 15, line 20, strike "of".

Page 15, strike lines 21 through 22.

Page 15, line 23, strike "applicant,".

Page 15, line 40, after "(b)" insert "An application for a license may also be denied if an adult who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

- (1) A felony described in IC 31-27-4-13(a); or
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- 1           **(1) The length of time that has passed since the disqualifying**
- 2           **conviction.**
- 3           **(2) The severity, nature, and circumstances of the offense.**
- 4           **(3) Evidence of rehabilitation.**
- 5           **(4) The duties and qualifications required for the proposed**
- 6           **employment positions or volunteer assignment.**

7           **(d)".**

8           Page 15, line 41, strike "is" and insert "**could be**".

9           Page 16, line 6, strike "require" and insert "**constitute a sufficient**

10          **basis for the**".

11          Page 16, between lines 7 and 8, begin a new paragraph and insert:

12          **"(e) The department may adopt rules to implement this section".**

13          Page 16, line 30, after "32." insert "**(a)**".

14          Page 17, line 1, strike "an employee of the".

15          Page 17, strike lines 2 through 5.

16          Page 17, line 6, strike "direct supervision of the applicant,".

17          Page 17, line 6, delete "or a person at least eighteen".

18          Page 17, line 7, delete "18 years of age who is residing in the home

19          of the licensee".

20          Page 17, line 7, strike "of" and insert "**for**".

21          Page 17, between lines 20 and 21 begin a new paragraph and insert:

22          **"(b) A license may also be revoked if an adult who resides in the**

23          **residence of the licensee or an employee or volunteer of the licensee**

24          **who has direct contact on a regular and continuous basis with**

25          **children who are under the direct supervision of the licensee has**

26          **been convicted of any of the following:**

- 27               **(1) A felony described in IC 31-27-4-13(a); or**
- 28               **(2) Any other felony or a misdemeanor relating to the health**
- 29               **and safety of a child, unless the licensee is granted a waiver by**
- 30               **the department to employ or assign the person as a volunteer**
- 31               **in a position described in this subsection.**

32          **(c) In determining whether to grant a waiver under subsection**

33          **(b), the department shall consider the following factors:**

- 34               **(1) The length of time that has passed since the disqualifying**
- 35               **conviction.**
- 36               **(2) The severity, nature, and circumstances of the offense.**
- 37               **(3) Evidence of rehabilitation.**
- 38               **(4) The duties and qualifications required for the proposed**
- 39               **employment positions or volunteer assignment.**

40          **(d) Notwithstanding subsection (b), if:**

- 41               **(1) A license could be revoked due to a criminal conviction of**
- 42               **an employee or a volunteer of the licensee; and**

**(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction; the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.**

**(e) The department may adopt rules to implement this section."**

Page 17, delete lines 38 through 42, begin a new paragraph and insert:

**"(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall ~~(1)~~ conduct a criminal history check of the following:**

~~(A)~~ **(1)** Each individual who is an applicant. ~~and~~

~~(B)~~ **(2)** The director or manager of a facility where children will be placed. ~~and"~~.

Page 18, strike lines 1 through 2.

Page 18, between lines 2 and 3, begin a new line block indented and insert:

**"(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant."**

Page 18, line 3, strike "An" and insert **"If the applicant conducts a criminal history check under subsection (d), the"**.

Page 18, line 3, after "shall" insert ":".

Page 18, line 3, strike "do the following:".

Page 18, strike lines 4 through 9.

Page 18, line 10, strike "(2)" and insert **"(1)"**.

Page 18, line 10, delete "Maintain" and insert "maintain".

Page 18, line 11, delete "the applicant" and insert **"it"**.

Page 18, line 12, delete "." and insert **"; and"**.

Page 18, line 13, delete "(3) Submit" and insert **"(2) submit"**.

Page 18, line 14, delete "who is the subject" and insert **"described in subsection (d)(1) through (d)(3)."**

Page 18, line 15, delete "of a criminal history check." begin a new paragraph and insert:

**"(f)".**

Page 18, line 16, after "applicant" insert **"under subsection (d)"**.

Page 18, delete lines 18 through 34, begin a new line block indented and insert:

**"(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:**



- 1           (A) a felony; or  
 2           (B) a misdemeanor relating to the health and safety of a  
 3           child;  
 4           (2) notify the applicant of the determination under subdivision  
 5           (1) without identifying a specific offense or other identifying  
 6           information concerning a conviction contained in the national  
 7           criminal history record information;  
 8           (3) submit to the applicant a copy of any state limited criminal  
 9           history report that the department receives on behalf of any  
 10          person described in subsection (d); and  
 11          (4) maintain a record of every report and all information it  
 12          receives concerning a person described in subsection (d)."

13          Page 18, line 35, delete "(f)" and insert "(g)".

14          Page 18, line 35, delete "(g)" and insert "(h)".

15          Page 18, line 36, delete "under this section" and insert "**described**  
 16          **in subsection (d)**".

17          Page 18, line 38, delete "(g)" and insert "(h)".

18          Page 18, line 38, delete "this section" and insert "**subsection (d)(2)**  
 19          **or (d)(3)**".

20          Page 18, line 40, after "employed" insert "**or assigned as a**  
 21          **volunteer**".

22          Page 18, line 40, delete "this section" and insert "**subsection (d)(3).**  
 23          **However, a national fingerprint based criminal history**  
 24          **background check defined in IC 31-9-2-22.5(1)(B) and required**  
 25          **under subsection (e) must be completed not later than the**  
 26          **conclusion of the first ninety (90) days of employment in or**  
 27          **assignment of a volunteer to a position described in subsection (e)**".

28          Page 18, line 40, delete "However, if" and insert "**If**".

29          Page 19, line 4, delete "(h)" and insert "**(i) An applicant or licensee**  
 30          **may provisionally employ an individual or assign a volunteer for**  
 31          **whom a criminal history check is required under subsection (d)(3)**  
 32          **during the period after the process of requesting national**  
 33          **fingerprint based criminal history background check information**  
 34          **has been initiated by or on behalf of the applicant or licensee but**  
 35          **before the determination is obtained by or communicated to the**  
 36          **applicant or licensee. If the determination is not received by not**  
 37          **later than the ninety (90) days after the effective date of hire or**  
 38          **volunteer assignment, the employee or volunteer relationship must**  
 39          **be terminated or suspended until a determination is received. An**  
 40          **employee or volunteer whose determination has not yet been**  
 41          **received may not have direct contact with a child who is or will be**  
 42          **placed at a facility operated by the applicant or licensee unless the**

1 **direct contact occurs only in the presence of a volunteer or**  
 2 **employee of the applicant or licensee who has been the subject of**  
 3 **a completed and approved criminal history check. In determining**  
 4 **whether to provisionally hire or assign as a volunteer an individual**  
 5 **under subsection (d)(3), the applicant or licensee shall consider the**  
 6 **following:**

7 **(1) The training time required by an employee or a volunteer.**

8 **(2) The safety and security of the children under the**  
 9 **supervision of the applicant or licensee.**

10 **(3) The safety and security of the other staff and volunteers**  
 11 **working under the supervision of the applicant or licensee.**

12 **(4) The staffing concerns of the applicant or licensee.**

13 **(5) Any other factor relating to the safety and security of the**  
 14 **applicant or licensee's operations.**

15 **(j)".**

16 Page 19, line 11, delete "(i)" and insert "(k)".

17 Page 19, line 39, strike "an employee of the".

18 Page 19, strike lines 40 through 42.

19 Page 20, strike line 1.

20 Page 20, line 2, strike "the direct supervision of the applicant" and  
 21 insert **"or the director or manager of a facility where children will**  
 22 **be placed by the applicant"**.

23 Page 20, line 15, delete "licensee" and insert **"applicant"**.

24 Page 20, line 19, after "(b)" insert **"An application for a license**  
 25 **may also be denied if an employee or volunteer of the applicant**  
 26 **who has direct contact on a regular and continuous basis with**  
 27 **children who are under the direct supervision of the applicant has**  
 28 **been convicted of any of the following:**

29 **(1) A felony described in IC 31-27-4-13(a).**

30 **(2) Any other felony or a misdemeanor relating to the health**  
 31 **and safety of a child, unless the applicant is granted a waiver**  
 32 **by the department to employ or assign the person as a**  
 33 **volunteer in a position described in this subsection.**

34 **(c) In determining whether to grant a waiver under subsection**  
 35 **(b), the department shall consider the following factors:**

36 **(1) The length of time that has passed since the disqualifying**  
 37 **conviction.**

38 **(2) The severity, nature, and circumstances of the offense.**

39 **(3) Evidence of rehabilitation.**

40 **(4) The duties and qualifications required for the proposed**  
 41 **employment positions or volunteer assignment.**

42 **(d)".**

- 1 Page 20, line 20, strike "is" and insert **"could be"**.
- 2 Page 20, line 25, strike "require" and insert **"constitute a sufficient**
- 3 **basis for the"**.
- 4 Page 20, between lines 25 and 26, begin a new paragraph and insert:
- 5 **"(e) The department may adopt rules to implement this**
- 6 **section."**.
- 7 Page 21, line 5, after "31." insert **"(a)"**.
- 8 Page 21, line 16, strike "an employee of the".
- 9 Page 21, strike lines 17 through 20.
- 10 Page 21, line 21, strike "the direct supervision of the licensee" and
- 11 insert **"or the director or manager of a facility where children will**
- 12 **be placed by the licensee"**.
- 13 Page 21, between lines 37 and 38, begin a new paragraph and insert:
- 14 **"(b) A license may also be revoked if an employee or volunteer**
- 15 **of the licensee who has direct contact on a regular and continuous**
- 16 **basis with children who are under the direct supervision of the**
- 17 **licensee has been convicted of any of the following:**
- 18 (1) A felony described in IC 31-27-4-13(a).
- 19 (2) Any other felony or a misdemeanor relating to the health
- 20 and safety of a child, unless the licensee is granted a waiver by
- 21 the department to employ or assign the person as a volunteer
- 22 in a position described in this subsection.
- 23 (c) In determining whether to grant a waiver under subsection
- 24 (b), the department shall consider the following factors:
- 25 (1) The length of time that has passed since the disqualifying
- 26 conviction.
- 27 (2) The severity, nature, and circumstances of the offense.
- 28 (3) Evidence of rehabilitation.
- 29 (4) The duties and qualifications required for the proposed
- 30 employment positions or volunteer assignment.
- 31 (d) Notwithstanding subsection (b), if:
- 32 (1) A license could be revoked due to a criminal conviction of
- 33 an employee or a volunteer of the licensee; and
- 34 (2) the department determines that the employee or volunteer
- 35 has been dismissed by the licensee within a reasonable time
- 36 after the licensee became aware of the conviction;
- 37 the criminal conviction of the former employee or former
- 38 volunteer does not constitute a sufficient basis for the revocation
- 39 of a license.
- 40 (e) The department may adopt rules to implement this section."
- 41 Page 22, line 2, strike "shall" and insert **"must"**.
- 42 Page 22, delete lines 13 through 17, begin a new paragraph and

1 insert:

2 **"(d) The department on behalf of an applicant, or, at the**  
 3 **discretion of the department, an applicant, shall ~~(1)~~ conduct a**  
 4 **criminal history check of the following:**

5 ~~(A)~~ **(1) Each individual who is an applicant. and**

6 ~~(B)~~ **(2) The director or manager of a facility where children will**  
 7 **be placed. and".**

8 Page 22, strike lines 18 through 19.

9 Page 22, between lines 19 and 20, begin a new line block indented  
 10 and insert:

11 **"(3) An employee or a volunteer of the applicant who has or**  
 12 **will have direct contact on a regular and continuing basis with**  
 13 **a child who is or will be placed in a facility operated by the**  
 14 **applicant.".**

15 Page 22, delete lines 20 through 30, begin a new paragraph and  
 16 insert:

17 **"(e) ~~An~~ If the applicant conducts a criminal history check under**  
 18 **subsection (d), the applicant shall: do the following:**

19 ~~(1) Conduct a criminal history check of the applicant's:~~

20 ~~(A) employees; and~~

21 ~~(B) volunteers;~~

22 ~~who have or will have direct contact, on a regular and continuing~~  
 23 ~~basis, with children who are or will be under the direct~~  
 24 ~~supervision of the applicant.~~

25 ~~(2) (1) maintain records of each the information it receives~~  
 26 ~~concerning each individual who is the subject of a criminal~~  
 27 ~~history check; and~~

28 **(2) submit to the department a copy of the information it**  
 29 **receives concerning each person described in subsection (d)(1)**  
 30 **through (d)(3).".**

31 Page 22, strike lines 31 through 33.

32 Page 22, between lines 33 and 34, begin a new paragraph and insert:

33 **"(f) If the department conducts a criminal history check on**  
 34 **behalf of an applicant under subsection (d), the department shall:**

35 **(1) determine whether the subject of a national fingerprint**  
 36 **based criminal history check has a record of a conviction for:**

37 **(A) a felony; or**

38 **(B) a misdemeanor relating to the health and safety of a**  
 39 **child;**

40 **(2) notify the applicant of the determination under subdivision**  
 41 **(1) without identifying a specific offense or other identifying**  
 42 **information concerning a conviction contained in the national**

1 **criminal history record information;**

2 **(3) submit to the applicant a copy of any state limited criminal**  
 3 **history report that the department receives on behalf of any**  
 4 **person described in subsection (d); and**

5 **(4) maintain a record of every report and all information the**  
 6 **department receives concerning a person described in**  
 7 **subsection (d).**

8 **(g) Except as provided in subsection (h), a criminal history**  
 9 **check described in subsection (d) is required only at the time an**  
 10 **application for a new license or the renewal of an existing license**  
 11 **is submitted.**

12 **(h) A criminal history check required under subsection (d)(2) or**  
 13 **(d)(3) must be completed on or before the date on which the subject**  
 14 **of the check is employed or assigned as a volunteer in a position**  
 15 **described in subsection (d)(3). However, if a person described in**  
 16 **this subsection has been the subject of a criminal history check (as**  
 17 **described in IC 31-9-2-22.5) that was conducted not more than one**  
 18 **(1) year before the date the license application is submitted to the**  
 19 **department, a new criminal history check of that person is not**  
 20 **required."**

21 Page 22, line 34, strike "(g)" and insert "(i)".

22 Page 22, between lines 40 and 41, begin a new paragraph and insert:

23 **"(j) A person who is the subject of a criminal history check**  
 24 **conducted in accordance with this section may request the state**  
 25 **police department to provide the person with a copy of any state or**  
 26 **national criminal history record information report concerning the**  
 27 **person."**

28 Page 23, line 12, strike "an employee of the".

29 Page 23, strike lines 13 through 16.

30 Page 23, line 17, strike "the direct supervision of the licensee" and  
 31 insert **"or the director or manager of a facility where children will**  
 32 **be placed by the licensee"**.

33 Page 23, line 30, delete "licensee".

34 Page 23, line 34, after "(b)" insert **"An application for a license**  
 35 **may also be denied if an employee or volunteer of the applicant**  
 36 **who has direct contact on a regular and continuous basis with**  
 37 **children who are under the direct supervision of the applicant has**  
 38 **been convicted of any of the following:**

39 **(1) A felony described in IC 31-27-4-13(a).**

40 **(2) Any other felony or a misdemeanor relating to the health**  
 41 **and safety of a child, unless the applicant is granted a waiver**  
 42 **by the department to employ or assign the person as a**

1 volunteer in a position described in this subsection.

2 (c) In determining whether to grant a waiver under subsection  
3 (b), the department shall consider the following factors:

4 (1) The length of time that has passed since the disqualifying  
5 conviction.

6 (2) The severity, nature, and circumstances of the offense.

7 (3) Evidence of rehabilitation.

8 (4) The duties and qualifications required for the proposed  
9 employment positions or volunteer assignment.

10 (d)".

11 Page 23, line 35, delete "is" and insert "**could be**".

12 Page 23, line 40, strike "require" and insert "**constitute a sufficient**  
13 **basis for the**".

14 Page 23, between lines 40 and 41, begin a new paragraph and insert:  
15 "**(e) The department may adopt rules to implement this section**".

16 Page 24, line 17, after "28." insert "(a)".

17 Page 24, line 28, strike "an employee of the".

18 Page 24, strike lines 29 through 32.

19 Page 24, line 33, strike "the direct supervision of the licensee" and  
20 insert "**or the director or manager of a facility where children will**  
21 **be placed by the licensee**".

22 Page 25, between lines 7 and 8, begin a new paragraph and insert:  
23 "**(b) A license may also be revoked if an employee or volunteer**  
24 **of the licensee who has direct contact on a regular and continuous**  
25 **basis with children who are under the direct supervision of the**  
26 **licensee has been convicted of any of the following:**

27 (1) A felony described in IC 31-27-4-13(a).

28 (2) Any other felony or a misdemeanor relating to the health  
29 and safety of a child, unless the licensee is granted a waiver by  
30 the department to employ or assign the person as a volunteer  
31 in a position described in this subsection.

32 (c) In determining whether to grant a waiver under subsection  
33 (b), the department shall consider the following factors:

34 (1) The length of time that has passed since the disqualifying  
35 conviction.

36 (2) The severity, nature, and circumstances of the offense.

37 (3) Evidence of rehabilitation.

38 (4) The duties and qualifications required for the proposed  
39 employment positions or volunteer assignment.

40 (d) Notwithstanding subsection (b), if:

41 (1) A license could be revoked due to a criminal conviction of  
42 an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction; the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 25, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 33. IC 31-33-8-13, AS AMENDED BY P.L.234-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever:

(1) an arrest relating to child abuse or neglect is made; the law enforcement agency that makes the arrest;

(2) criminal charges relating to child abuse or neglect are filed; the court in which the charges are filed;

(3) a child in need of services determination is made; the department; or

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report; the department; or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the department;

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur; the relevant a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the index of copy of the court's judgment."

Page 27, line 19, delete "Registry" and insert "Index".

Page 27, line 28, delete ""registry"" and insert ""index"".

Page 27, line 29, delete "registry" and insert "index".

Page 27, line 31, delete "registry" and insert "index".

Page 27, line 36, delete "registry, the registry" and insert "index, the index".

Page 28, line 8, delete "registry" and insert "index".

Page 28, line 19, delete "registry's" and insert "index's".

Page 28, line 24, delete "registry" and insert "index".

Page 28, line 27, delete "registry, the registry" and insert "index, the index".

- 1 Page 28, line 35, delete "registry" and insert "**index**".
- 2 Page 28, line 42, delete "registry" and insert "**index**".
- 3 Page 29, line 1, delete "registry" and insert "**index**".
- 4 Page 29, line 3, delete "registry" and insert "**index**".
- 5 Page 29, line 25, delete "registry." and insert "**index.**".
- 6 Page 29, line 34, delete "registry" and insert "**index**".
- 7 Page 29, line 36, delete "registry's" and insert "**index's**".
- 8 Page 29, line 37, delete "registry" and insert "**index**".
- 9 Page 29, line 38, delete "registry" and insert "**index**".
- 10 Page 30, line 21, delete "registry," and insert "**index,**".
- 11 Page 30, line 28, delete "registry." and insert "**index.**".
- 12 Page 30, line 39, delete "the perpetrator receives".
- 13 Page 30, line 39, after "notice" insert "**is served on the perpetrator**
- 14 **as provided in IC 4-21.5-3-1(b). Time shall be computed as**
- 15 **provided in IC 4-21.5-3-2."**
- 16 Page 31, line 19, after "under" insert "**section 15 of**".
- 17 Page 31, line 20, delete "The" and insert "**The department shall**
- 18 **maintain the**".
- 19 Page 31, line 20, delete "must, to".
- 20 Page 31, line 21, delete "the extent possible, be maintained".
- 21 Page 31, line 26, delete "registry and insert "**index**".
- 22 Page 32, line 6, delete "whose report has been reviewed by a court".
- 23 Page 32, line 7, after "chapter" insert "**if a court has determined**
- 24 **that:**
- 25 **(1) the alleged child abuse or neglect did not occur; or**
- 26 **(2) the person was not a perpetrator of the alleged child abuse**
- 27 **or neglect".**
- 28 Page 32, line 24, delete "registry" and insert "**index**".
- 29 Page 32, line 33, delete "registry" and insert "**index**".
- 30 Page 32, line 36, delete "registry" and insert "**index**".
- 31 Page 33, between lines 7 and 8, begin a new paragraph and insert:
- 32 **"(b) The department shall amend a substantiated report**
- 33 **contained in the index by deleting the name of an alleged**
- 34 **perpetrator if:**
- 35 **(1) a court having jurisdiction over a child in need of services**
- 36 **proceeding; or**
- 37 **(2) an administrative hearing officer under this chapter;**
- 38 **finds that the person was not a perpetrator of the child abuse or**
- 39 **neglect that occurred."**
- 40 Page 33, line 8, delete "(b)" and insert "**(c)**".
- 41 Page 33, line 12, delete "(c)" and insert "**(d)**".
- 42 Page 33, line 13, delete "registry" and insert "**index**".



- 1 Page 33, line 14, delete "(d)" and insert "(e)".
- 2 Page 33, line 15, delete "registry" and insert "**index**".
- 3 Page 33, line 16, delete "registry." and insert "**index.**".
- 4 Page 33, line 18, delete "registry" and insert "**index**".
- 5 Page 33, delete lines 23 through 42.
- 6 Page 34, delete lines 1 through 4.
- 7 Page 34, line 5, delete "(4)" and insert "(2)".
- 8 Page 34, line 20, delete "(5)" and insert "(3)".
- 9 Page 34, line 21, delete "registry" and insert "**index**".
- 10 Page 34, line 25, delete "(6)" and insert "(4)".
- 11 Page 34, line 27, delete "registry." and insert "**index.**".
- 12 Page 34, line 28, delete "(7)" and insert "(5)".
- 13 Page 34, line 34, delete "(8)" and insert "(6)".
- 14 Page 34, line 40, delete "(9)" and insert "(7)".
- 15 Page 35, line 6, delete "(10)" and insert "(8)".
- 16 Page 35, line 8, delete "registry" and insert "**index**".
- 17 Page 35, line 13, delete "(11)" and insert "(9)".
- 18 Page 35, line 14, delete "registry" and insert "**index**".
- 19 Page 35, line 17, delete "registry;" and insert "**index;**".
- 20 Page 35, delete lines 21 through 34 and insert:
- 21 **"(12) To determine the eligibility of a child care provider to**
- 22 **receive a voucher payment (as defined in IC 12-17.2-3.5-3),**
- 23 **the division of family resources may use information**
- 24 **contained in the index concerning whether a child has been**
- 25 **found by a court to be a child in need of services based on a**
- 26 **report of child abuse or neglect naming an individual**
- 27 **described in IC 12-17.2-3.5-4.1(a) as a perpetrator."**
- 28 Page 36, line 3, delete "registry" and insert "**index**".
- 29 Page 36, line 33, strike "legal" and insert "**any day on which a legal**
- 30 **holiday is observed for state employees as provided in IC 1-1-9."**
- 31 Page 36, line 34, strike "holidays."
- 32 Page 36, delete lines 41 through 42.

- 1 Page 37, delete lines 1 through 13.
- 2 Page 47, line 19, after "IC 31-37-24" insert "; IC 31-34-8-4".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to SB 328 as introduced.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 8, Nays 0.

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**Senator Bray, Chairperson**